

Serial No.: 10/644,193
Amendment dated July 19, 2005
Response to Office Action mailed May 6, 2005

REMARKS/ARGUMENTS

The Office Action of May 6, 2005 has been carefully reviewed and these remarks are responsive thereto.

Claims 1-3 and 6-16 are pending. Claims 4-5 have been cancelled. Claims 11-16 are new. Claims 1-3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,646,935 to Ulam ("Ulam") in view of U.S. Patent No. 6,422,233 to Bhagat ("Bhagat"). Claims 4-7 and 9-10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ulam. Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ulam.

New Claims

Claims 11-16 are new. Support for claims 11-16 is at least found in Figures 1 and 3 and in paragraphs 11-17 of the specification as filed, thus no new matter has been added. Applicant respectfully submits that claims 11-16 are in condition for allowance and respectfully requests notification of same.

Rejection under 35 U.S.C § 102(b) - Ulam

Claims 4-7 and 9-10 were rejected in under 35 U.S.C. § 102(b) as being anticipated by Ulam. Claims 4-5 have been cancelled, thus mooted the rejection of these claims.

Ulam discloses a plurality of layers bonded together and shaped into a cooking utensil. (Ulam, Abstract). As the Office Action admits, however, Ulam fails to disclose any of the layers having perforations into which another layer may extend.

Independent claim 6 recites "the third layer comprising perforations into which the second layer extends." As the Office Action admits that Ulam fails to disclose such a feature, Ulam fails to disclose all the limitations of claim 6. Therefore, Ulam cannot be said to anticipate claim 6.

Claims 7 and 9-10 depend from claim 6 and are not anticipated for at least the above reason and for the additional limitations recited therein.

Accordingly, withdrawal of this ground of rejection is respectfully requested.

Serial No.: 10/644,193
Amendment dated July 19, 2005
Response to Office Action mailed May 6, 2005

Rejection under 35 U.S.C § 103(a) - Ulam

Claim 8, which depends from claim 6, was rejected under 35 U.S.C. § 103 a) as being obvious in view of Ulam.

As noted above, the Office Action admits that Ulam fails to disclose any of the layers having perforations into which another layer may extend. As claim 8 depends from claim 6, claim 8 necessarily includes the limitation "the third layer comprising perforations into which the second layer extends." As Ulam fails to disclose such a feature and no other reference of record was suggested to be combinable with Ulam to correct this deficiency, the Office Action fails to make a *prima facie* case of obviousness for claim 8. See MPEP 706.02(j) ("To establish a *prima facie* case of obviousness, three basic criteria must be met. ... [Third], the prior art reference ... must teach or suggest all the claim limitations.").

Accordingly, withdrawal of this ground of rejection is respectfully requested.

Rejection under 35 U.S.C § 103(a) – Ulam in view of Bhagat

Claims 1-3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ulam in view of Bhagat.

Ulam, as noted above, discloses a plurality of layers that are formed into the shape of a cookware. Ulam discloses that a single blank of the layers that may be used to form the bottom and the sides. (Ulam, C. 2, L. 52-60). As the Office Action admits, however, Ulam fails to disclose a perforated layer into which another layer may extend.

Bhagat discloses a first layer of aluminum 1 formed into a stainless steel plate 2 with a pressure of 2000 tons. (Bhagat, C. 3, L. 15-19). The steel plate 2 of Bhagat, however, fails to extend beyond the base of Bhagat. Nor does Bhagat suggest the steel plate should or even may be modified. Instead, Bhagat teaches that the disclosed shape of the steel plate is necessary to avoid the cone effect and to expel air during the action of the hot press. (Bhagat, C. 4 L. 17-21).

Independent claim 1 recites "a third layer formed from a sheet of stainless steel and thermally bonded with the second layer, the third layer extending continuously along the substantially horizontal surface and along the annular vertical wall...the third layer including a plurality of perforations into which some of the second layer extends." As noted above, Ulam

Serial No.: 10/644,193
Amendment dated July 19, 2005
Response to Office Action mailed May 6, 2005

does not disclose a perforated layer. Bhagat's perforated layer does not extend beyond the base. Therefore, the combination of Ulam and Bhagat fails to disclose the above limitation. Thus, even assuming that there is some suggestion to combine Bhagat with Ulam, something the Applicant respectfully submits does not exist, the combination still not disclose all the limitations of independent claim 1. See MPEP 706.02(j) ("To establish a *prima facie* case of obviousness, three basic criteria must be met. ... [Third], the prior art reference ... must teach or suggest all the claim limitations."). As the combination of Ulam and Bhagat fails to disclose suggest or teach all the limitations of claim 1, the combination of Ulam and Bhagat fails to support a *prima facie* case of obviousness for independent claim 1.

Claims 2-3 depend from claim 1 and are nonobvious for at least the reasons supporting the non-obviousness of claim 1 and for the additional limitations recited therein.

Accordingly, withdrawal of this ground of rejection is respectfully requested.

CONCLUSION

It is believed that no fee is required for this submission. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections and objections having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated: July 19, 2005

By: 

J. Pieter van Es

Registration No. 37,746

Banner & Witcoff, LTD.
Ten South Wacker Drive
Chicago, Illinois 60606
Tel: (312) 463-5000
Fax: (312) 463-5001